

REMARKS

In accordance with the above amendments, claims 2, 11 and 20 have been amended and claims 6 and 17 have been canceled. Claims 2-12, 14 and 18-21 remain under consideration in the present application. Presently, no claim has been allowed.

In regard to the Action, it is noted that once again the claims have been rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. First, with respect to the use of the word "independent" with respect to the watercraft, it is believed quite clear from the drawings though not specifically stated in the specification that the watercraft is indeed an "independent" watercraft. It is also clear from the drawings and specification that the watercraft is "un-tethered" to which claim 2 has been amended. Note the description beginning in the last line of page 1 and going over to the first line of page 2 which describes the watercraft example as "a conventional barge... which may tug-operated or self-propelled."

Further with regard to the word "fixed", mixing drums and conveyors must be fixed in relation to each other and also fixed to the deck of the watercraft in order for the system to be operable. This is something that a person at the level of one skilled in the art would readily recognize and it should need no further explanation in the specification. It is further clear from the drawing figures that the system is fixed in place on the watercraft

and not designed to move about. Thus, it is believed that the term "fixed" is clearly supported in the original material and that the claims are not indefinite under 35 USC § 112, second paragraph. To reach any other conclusion results in an unstable and inoperable system. It is not believed that one skilled in the art need be burdened with a description of each and every detail.

Accordingly, the Examiner is respectfully requested to reconsider his position and withdraw the rejections based on 35 USC § 112.

It is further noted that claims 2-5, 7, 11, 14 and 17-21 remain rejected under 35 USC § 103(a) as being unpatentable over Doherty (USPN 4,792,234) in view of Malan (USPN 3,845,631). This rejection is respectfully traversed.

This is based on reasons already of record and for the further reason that, unlike the Doherty system, the concrete mixing and dispensing system of the present invention cannot be moved from site to site and is not simply a portable system having been parked on a barge. Because many of the parts might be similar in concrete batching plant operations, it does not mean that an inventive step is not involved in creating a concrete mixing and delivery system as in the present invention. It is clear, for example, that Doherty '234 does not teach a mixing and delivery system that is separately supplied, but a complete portable batching plant. The purpose of the present invention, on the other hand, is to mix and deliver concrete to a remote site over water using an un-tethered

watercraft. The invention addresses certain special circumstances which are clearly not presented or addressed by the cited references.

The present independent claim 2 requires a conveyor system including a pair of conveyors which combine to convey mixed concrete to an elevated mechanized discharge chute. This is specifically neither shown or suggested by the art including any combination of Doherty '234 and Malan '631. The fact that Farrell (USPN 2,319,807) shows a different system for conveying mixed material from the drum to an elevated discharge point in a completely different manner, certainly does not teach or suggest the presently claimed system.

It appears that only through hindsight cataloging of parts and, in addition, deeming other elements obvious that one could arrive at the presently claimed combination. Applicants believe that one would not arrive at the presently claimed combination based on the teachings and suggestions of the references themselves absent unwarranted hindsight.

Accordingly, the Examiner is respectfully requested to reconsider his position, withdraw the present rejections and allow the claims.

Should the Examiner still be not inclined to allow all of the claims, it is believed that this paper does reduce the issues and put the claims into better condition for an Appeal and it is respectfully requested that, in any event, this paper be entered.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Amendment Under 37 CFR 1.116 in response to the Official Action mailed December 5, 2005, in application Serial No. 10/607,883, filed on June 27, 2003, of Thomas J. Harris et al, entitled "BARGE-MOUNTED CONCRETE MIXING SYSTEM", and a transmittal letter are being sent by facsimile transmission to: The Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 6, 2006.



Barbara L. Davis
On behalf of C. G. Mersereau

Date of Signature: February 6, 2006